

**BOARD OF APPEALS CASE NO. 5151**

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**BEFORE THE**

**APPLICANT: Benjamin & Sara Bernstein**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to locate a 45 square foot  
sign 2 feet from the road right-of-way;  
1115 Emmorton Road, Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

**Aegis: 5/30//01 & 6/6/01**

**HEARING DATE: July 9, 2001**

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**Record: 6/1/01 & 6/8/01**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Benjamin D. Bernstein and Sara L. Bernstein, are requesting a variance, pursuant to Sections 219-17, 219-13B, and 2119-5B, of the Harford County Sign Code, to allow a freestanding sign, parallel to the road, more than 8 square feet in size (proposed 45 square foot sign), and located 2 feet from the road right-of-way in an R)/Residential Office District.

The subject parcel is located at 1115 Emmorton Road (MD Route 924), Bel Air, MD 21014, and is more particularly identified on Tax Map 49, Grid 3C, Parcel 1176. The parcel consists of 5.90± acres, is presently zoned RO, Residential Office, and is entirely within the Third Election District.

Dr. Benjamin Bernstein appeared and testified that he and his wife are the co-applicants in the subject case. Dr. Bernstein practices medicine from his home, located in Bel Air, and he stated that at the time of his purchase, the subject property was zoned RO. Pursuant to Board of Appeals Case No. 2542, Dr. Bernstein erected a 1-1/2 by 2 foot sign on the property, which advertises his medical practice. The sign stood on the property in the same place for 22 years, until it was determined that the sign was actually in the right-of-way of the road. Because of the location of the sign in the right-of-way, the Applicant proposes to move the sign back away from MD Route 924, out of the right-of-way, but, because of the distance that it has to be moved back, he believes the sign needs to be substantially larger in order to be seen by passersby, particularly by motorists traveling along Route 924 seeking his office.

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Dr. Bernstein described the property and indicated that there is a hill along side of the driveway which acts as an impediment to seeing the sign if it was located anywhere on that side of the driveway. Additionally, the witness said that placing the sign 25 feet back from its present location and leaving it at 1-1/2 x 2 feet in size, would make it impossible for motorists traveling along Route 924 to see, much less even read, the content of the sign. Dr. Bernstein did state that his patient population is somewhat older than many doctors because of his specialty as a dermatologist and that the ability of these patients to see the sign is important in directing them to his office. Dr. Bernstein also stated that none of the neighbors on his side of the road would actually be able to see the face of the sign from their property, and that the proposed sign is very similar to other signs commonly found in this particular neighborhood. Dr. Bernstein concluded by saying that he did not think that any adverse impacts would result from the proposed placement or proposed size of the sign.

The Department of Planning and Zoning presented a Staff Report in this case, dated June 7, 2001, wherein the Department recommended approval of the Applicants' request, finding that the property was, indeed, topographically unique and that there was no lesser relaxation of the Code requirements that would allow the Applicant to place a sign that would actually be helpful to patients seeking his office. The proposed sign will be 5 feet in height and 9 feet in width and will be located 2 feet from the edge of the road right-of-way, parallel to the road. The Department found that MD Route 924 is very wide with existing utility poles located approximately on the edge of the right-of-way. The Department concluded that no adverse impacts would result from the placement or size of the sign and recommended approval.

### **CONCLUSION:**

The Applicants are requesting a variance, pursuant to Sections 219-17, 219-13B, and 2119-5B, of the Harford County Sign Code, to allow a freestanding sign, parallel to the road, more than 8 square feet in size (proposed 45 square foot sign), and located 2 feet from the road right-of-way in an RO/Residential Office District.

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**Section 219-5B of the Harford County Sign Code provides:**

**“Freestanding signs. A freestanding sign shall include any sign supported by uprights or braces placed upon the ground and not attached to any building. Business signs may be freestanding if the property has a minimum of forty (40) feet of road frontage. The sign area shall be calculated on the basis of one (1) square foot of sign for every foot of property road frontage. However, the maximum area of any freestanding sign shall not exceed two hundred (200) square feet. The setback measured to the edge of the sign shall be equal to one-third (1/3) of the required building setback. Unless otherwise provided herein, the maximum height allowed for any freestanding sign is thirty-five (35) feet above the nearest public road grade.”**

**Section 219-13B permits signs in the RO, Residential Office District as follows:**

- (1) The following signs shall be allowed:**
  - (a) One freestanding sign per parcel, which shall have a maximum of eight square feet in area, shall be no more than six feet in height and shall be placed perpendicular to the road; and**
  - (b) A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than four square feet in area.**
- (2) Freestanding and wall signs shall be constructed of wood, brass or bronze and shall not be internally illuminated. Both freestanding and wall signs may be externally illuminated.**
- (3) Signs shall be constructed in an unobtrusive manner which compliments the architectural element of the building and reflects the architectural period of the building.**
- (4) Temporary signs shall be prohibited in the RO District.**

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**Section 219-17 permits variances and provides:**

**“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”**

**Based on the testimony presented in this case and the standards presented by Sections 219-17 of the Harford County Sign Code, the Applicant has met the burden in proving both that the lot upon which the sign is to be erected has unique topographic characteristics and that these characteristics result in a practical difficulty and unnecessary hardship if the application were not granted.**

**The Hearing Examiner, therefore, recommends that the requested variance be approved.**

**Date    AUGUST 21, 2001**

**William F. Casey  
Zoning Hearing Examiner**